



POLYFLUOROALKYL SUBSTANCES (PFAS): REGULATING TOXIC COMPOUNDS



LEGISLATIVE OVERVIEW SERIES: 2022 PUBLIC HEALTH SPOTLIGHT

INTRODUCTION

Per- and Polyfluoroalkyl substances (PFAS) are synthetic chemicals used in products such as nonstick cookware, water-repellent clothing, stain-resistant fabrics, cosmetics, and firefighting foam.¹ These chemicals can migrate into soil, water, and air during production and use, with most remaining in the environment without breaking down. PFAS can accumulate in the blood of people and animals over time from exposure to contaminated environmental media (e.g., water, soil) and consumer products (e.g., food packaged in containers made with PFAS.²) There is evidence that exposure to PFAS may cause harmful health effects, such as decreased vaccine response in children, increased risk of kidney or testicular cancer, and increased cholesterol levels.³

EPA released its PFAS Strategic Roadmap in October 2021, outlining the federal plan to further research, restrict, and remediate environmental contamination by 2024.⁴ Under this plan, the federal government (1) published a national PFAS testing strategy in October 2021,⁵ (2) will review current agency policies relating to PFAS, (3) improve identifying and tracking which PFAS are released into the environment, (4) and publish a national primary drinking water regulation for Perfluorooctane Sulfonate (PFOS) and Perfluorooctanoic Acid (PFOA), among other actions and initiatives. The plan calls for every level of government—including states and territories—to accelerate efforts to understand the effects of PFAS, clean up existing PFAS contamination, and prevent new contamination. The Bipartisan Infrastructure Law, signed by President Biden on November 15, 2021, invests \$10 billion to help communities test for and clean up PFAS and other emerging contaminants in drinking water and wastewater.

LEGISLATIVE TRENDS

State legislative approaches to address PFAS contamination range from identifying and monitoring PFAS, establishing maximum levels of PFAS

NATIONAL BASELINE

EPA's drinking water health advisory for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) stands at a combined concentration of 70 parts per trillion, which EPA considers to be adequate in providing "Americans, including the most sensitive populations, with a margin of protection from a lifetime of exposure to PFOA and PFOS from drinking water."⁶

concentrations in air and water, and restricting the sale or use of products known to contain PFAS. Products such as firefighting foam, cosmetics, cookware, and food packaging can contain PFAS, and several states are taking steps to restrict their sale or use.

ASSESSMENT AND MONITORING

In 2021, at least three states enacted laws to assess and monitor PFAS within the environment. Maine enacted several laws directing the Board of Pesticides and Department of Agriculture, Conservation, and Forestry to study and evaluate PFAS contamination. Nevada enacted a law establishing a working group to evaluate PFAS contamination, identify the location of PFAS discharge and human exposure, and recommend remediation. New Hampshire enacted a law requiring small groundwater sources, like wells on personal property, to be assessed for PFAS exposure.

WATER QUALITY STANDARDS

Beyond the pending federal water quality PFAS standards, at least two states enacted laws establishing water quality standards. Maine enacted a law authorizing the Department of Health and Human Services to create rules establishing maximum contaminant levels of PFAS in public drinking water. Delaware enacted a law directing public health and environmental agencies to set maximum contaminant levels in accordance with EPA assessments.

FIREFIGHTING RESTRICTIONS

In 2021, at least nine states enacted legislation prohibiting or restricting the use of Class B firefighting foam with



PFAS RISKS: Some chemicals prevalent in industrial and consumer goods production may:

- Decrease vaccine response in children.
- Increase risk of kidney or testicular cancer.
- Increase cholesterol levels.
- Increase the risk of high blood pressure or pre-eclampsia in pregnant people.³

intentionally added PFAS. Connecticut enacted a law prohibiting the discharge and use of firefighting foam that included provisions for certain facilities—such as airports or chemical plants—to request an extension on using firefighting foam with PFAS until 2023 and be informed about safe disposal of their existing PFAS-containing firefighting foam by the Commissioner of Emergency and Environmental Protection.

CONSUMER PRODUCT PACKAGING

At least four states considered bills limiting the use of PFAS in consumer product packaging, particularly for food and cosmetics. California enacted a law prohibiting any person from distributing, selling, or offering for sale food packaging containing PFAS by Jan. 1, 2023. The California law also requires cookware manufacturers whose products contain certain chemicals, including PFAS, to include a warning label on the product in English and Spanish that directs consumers where they can learn more about the chemicals used in the cookware. Maryland enacted a law prohibiting the knowing sale and distribution of cosmetic products that contain PFAS.

LOOKING AHEAD

ASTHO expects additional states to adopt laws aimed at reducing the risks associated with PFAS exposure. Future state legislative action may:

- Direct state agencies to establish drinking water regulations, such as creating maximum contaminant levels for specific PFAS.

- Investigate the use of PFAS chemicals in food and product packaging.
- Advance research and assessments to better understand the health effects of PFAS exposure.
- Request public education about PFAS exposure risks and mitigation, while engaging communities about ongoing efforts to monitor exposures and remediate exposure sources.
- Create partnerships between state health departments and other agencies to provide education on PFAS exposure risks and mitigation, particularly in firefighting foam and drinking water.

1. Agency for Toxic Substances and Disease Registry. "What are PFAS?" Available at <https://www.atsdr.cdc.gov/pfas/health-effects/overview.html>. Accessed 11-8-2021.
2. Agency for Toxic Substances and Disease Registry. "How can I be exposed to PFAS?" Available at <https://www.atsdr.cdc.gov/pfas/pfas-exposure.html>. Accessed 11-8-2021
3. Agency for Toxic Substances and Disease Registry. "What are the health effects?" Available at <https://www.atsdr.cdc.gov/pfas/health-effects.html>. Accessed 11-8-2021
4. Environmental Protection Agency. "PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024." Available at <https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024>. Accessed 11-8-2021.
5. EPA. "National PFAS Testing Strategy: Identification of Candidate Per- and Poly-fluoroalkyl Substances (PFAS) for Testing." Available at <https://www.epa.gov/system/files/documents/2021-10/pfas-natl-test-strategy.pdf>. Accessed 11-22-2021.
6. EPA. "Drinking Water Health Advisories for PFOA and PFOS." Available at <https://www.epa.gov/ground-water-and-drinking-water/drinking-water-health-advisories-pfoa-and-pfos>. Accessed 11-9-2021.

LEARN MORE AT WWW.ASTHO.ORG



HEADQUARTERS:
2231 Crystal Drive,
Suite 450 Arlington, VA 22202

REGIONAL OFFICE:
600 Peachtree Street NE,
Suite 1000 Atlanta, GA 30308

